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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/787,015	03/12/2001	Oleg A. Voronov	99-04US	8121

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EXAMINER

LISH, PETER J

ART UNIT PAPER NUMBER

1754  
DATE MAILED: 12/16/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

mk-3

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/787,015	VORONOV ET AL.
	Examiner	Art Unit
	Peter J Lish	1754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 12 March 2001.

2a) This action is **FINAL**.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-19 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1,2,4-8,10 and 16-19 is/are rejected.

7) Claim(s) 3,9 and 11-15 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Pri ority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.

4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

The reference being supplied is being used as a translation of its equivplanet PCT document, WO98/16465, which has a publication date of April 23, 1998. This is done merely for convenience and the above document will be provided upon request.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 18 and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 18 and 19 are state their dependency on “the process as claimed in claim 17”, however, it is noted that claim 17 does not claim a process, but rather a carbon material.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1, 2, 4-8, 10, 16-17, and 19 are rejected under 35 U.S.C. 102(a) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Blank et al. (WO98/16465).

Blank et al. disclose a hard carbon material which comprises C<sub>60</sub> fullerenes. The material may have a hardness of above 1 GPa (reaching about 170 Gpa), a resistance of below 10 ohm-cm (ranging between 10<sup>-4</sup> and 102), and a density of above 2.3 g/cm<sup>3</sup> (ranging between 2.1-3.5). The carbon material is produced from pure C<sub>60</sub> fullerene powder, with 99.98% C<sub>60</sub> (column 10, lines 56-58).

The process by which this superhard carbon material is formed consists of treating the fullerene powder under pressures selected within the range of 7.5-37.0 GPa and temperature selected within the range of 20-1830 °C, with an exposure of not less than one second (column 6, lines 40-50). The starting fullerene powder may be initially pressurized before heating under pressure (column 7, lines 1-6). Example 1 shows that the fullerene powder is first brought to the working pressure, before being heated. Therefore, it is expected that this pretreatment pressurization of the fullerene powder results in an agglomeration to a density above 1.4 g/cm<sup>3</sup>.

Claims 6, 7, and 16 appear to be only impurities, such as from the pressing apparatus. Impurities of this degree may be found in the fullerene product of Blank et al. Note the small deviations, or 'bumps', that appear in the X-ray diffraction patterns of Figures 1-7.

#### *Allowable Subject Matter*

Claims 3, 9, and 11-15 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter J Lish whose telephone number is 703-308-1772. The examiner can normally be reached on 9:00-6:00 Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman can be reached on 703-308-3837. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-305-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

PL  
December 2, 2002



STUART L. HENDRICKSON  
PRIMARY EXAMINER